

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

BARRY C. McANARNEY, as he is EXECUTIVE  
DIRECTOR, MASSACHUSETTS LABORERS' HEALTH  
AND WELFARE FUND, MASSACHUSETTS LABORERS'  
PENSION FUND and MASSACHUSETTS LABORERS'  
ANNUITY FUND; JAMES V. MERLONI, JR., as he is  
ADMINISTRATOR, NEW ENGLAND LABORERS'  
TRAINING TRUST FUND; and JOSEPH BONFIGLIO, as he  
is TRUSTEE, MASSACHUSETTS LABORERS' LEGAL  
SERVICES FUND,

Plaintiffs,

vs.

RAISED COMPUTER FLOORS, INC.,  
Defendant.

C.A. No.

**VERIFIED COMPLAINT**

**NATURE OF ACTION**

1. This is an action brought pursuant to §§502 and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §§1132(a)(3) and (d)(1) and 1145 and §301 of the Labor Management Relations Act ("LMRA"), as amended, 29 U.S.C. §185, by employee benefit plans to enforce the obligations to make contributions and pay interest due to the plans under the terms of a collective bargaining agreement and the plans.

**JURISDICTION**

2. The Court has exclusive jurisdiction of this action pursuant to §502(a), (e) and (f) of ERISA, 29 U.S.C. §§1132(a), (e) and (f), and concurrent jurisdiction pursuant to §301 of the

LMRA, as amended, 29 U.S.C. §185, without respect to the amount in controversy or the citizenship of the parties.

**PARTIES**

3. Plaintiff Barry C. McAnarney is the Executive Director of the Massachusetts Laborers' Health and Welfare Fund. The Massachusetts Laborers' Health and Welfare Fund is an "employee welfare benefit plan" within the meaning of §3(3) of ERISA, 29 U.S.C. §1002(3). It provides health, dental and prescription benefits and life insurance, accident insurance, and accident and sickness benefits to participants. The Fund is administered at 1400 District Avenue, Burlington, Massachusetts, within this judicial district.

4. Plaintiff Barry C. McAnarney is also the Executive Director of the Massachusetts Laborers' Pension Fund. The Massachusetts Laborers' Pension Fund is an "employee pension benefit plan" within the meaning of §3(2)(A) of ERISA, 29 U.S.C. §1002(2)(A). It provides participants with a defined pension benefit. The Fund is administered at 1400 District Avenue, Burlington, Massachusetts, within this judicial district.

5. Plaintiff Barry C. McAnarney is also the Executive Director of the Massachusetts Laborers' Annuity Fund. The Massachusetts Laborers' Annuity Fund is an "employee pension benefit plan" within the meaning of §3(2)(A) of ERISA, 29 U.S.C. §1002(2)(A). This Fund is a defined contribution fund. The Fund is administered at 1400 District Avenue, Burlington, Massachusetts, within this judicial district.

6. Plaintiff James V. Merloni, Jr. is the Administrator of the New England Laborers' Training Trust Fund. The New England Laborers' Training Trust Fund is an "employee welfare benefit plan" within the meaning of §3(1) of ERISA, 29 U.S.C. §1002(1). This Fund trains

apprentices and journey workers in the construction industry. The Fund is administered at 37 East Street, Hopkinton, Massachusetts, within this judicial district.

7. Plaintiff Joseph Bonfiglio is a Trustee of the Massachusetts Laborers' Legal Services Fund. The Massachusetts Laborers' Legal Services Fund is an "employee welfare benefit plan" within the meaning of §3(1) of ERISA, 29 U.S.C. §1002(1). The Fund is administered at 1400 District Avenue, Burlington, Massachusetts, within this judicial district.

8. The Health and Welfare, Pension, Annuity, Training and Legal Services Funds are multi-employer plans within the meaning of §3(37) of ERISA, 29 U.S.C. §1002(37). They are hereinafter collectively referred to as "the Funds." The Funds are third party beneficiaries of an Agreement between Defendant Raised Computer Floors, Inc. ("Raised") and the Massachusetts & Northern New England Laborers' District Council ("Union").

9. Defendant Raised is a New Jersey corporation with a principal place of business at 208 North Midland Avenue, Suite 330, Saddle Brook, New Jersey, and is an employer engaged in commerce within the meaning of §3(5) and (12) of ERISA, 29 U.S.C. §1002(5) and (12) and within the meaning of §301 of the LMRA, 29 U.S.C. §185. Its Registered Agent listed with the Secretary of the Commonwealth of Massachusetts is Precision Corporate Services Inc., 44 School Street, Suite 325, Boston, Massachusetts.

### **GENERAL ALLEGATIONS OF FACT**

10. On or about January 15, 2016, Raised signed a Short Form Agreement to pay amounts to the Plaintiff Funds at rates set forth therein for pension, health, annuity and other benefits for each hour worked by its employees on a project at 399 Revolution Drive in Somerville, Massachusetts ("the Project"), and to submit such payments and report forms on a monthly basis to the Administrator of the Funds on the first of each month following the month

in which such work was performed. A true and accurate copy of the Short Form Agreement (“Agreement”) is attached hereto as Exhibit A.

11. Raised has failed to submit contributions and/or reports for hours worked by its employees on the Project for the months of August, September, and October 2016. On information and belief, Raised employed laborers for work on the Project during these months.

**COUNT I - VIOLATION OF ERISA -  
DELINQUENT CONTRIBUTIONS**

12. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 11 above.

13. The failure of Raised to make payment of all contributions owed to Plaintiff Funds on behalf of all covered employees violates §515 of ERISA, 29 U.S.C. §1145.

14. Absent an order from this Court, Raised will continue to refuse to pay the monies it owes to the Funds, as a result of which the Funds and their participants will be irreparably damaged.

15. A copy of this Complaint is being served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by §502(h) of ERISA, 29 U.S.C. §1132(h).

**COUNT II - VIOLATION OF COLLECTIVE BARGAINING AGREEMENT -  
DELINQUENT CONTRIBUTIONS AND DUES**

16. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 through 15 above.

17. The Short Form Agreement is a contract within the meaning of §301 of the LMRA, 29 U.S.C. §185.

18. The failure of Raised to pay the contributions it owes for August, September, and October 2016, as well as its failure to submit remittance reports, violates the terms of the Agreement.

**WHEREFORE**, Plaintiffs request this Court grant the following relief:

- a. Order the attachment of the machinery, inventory and accounts receivable of Raised;
- b. Enter a preliminary and permanent injunction enjoining Raised from refusing or failing to pay contributions and submit remittance reports due to the Funds;
- c. Enter judgment in favor of the Funds on Count I in the amount of all contributions owed from August 2016 through the present, plus any additional amounts determined by the Court to be owed the Funds or which may become due during the pendency of this action, together with liquidated damages in an amount equal to 20 percent of the total of unpaid contributions or the total interest owed, whichever is greater, reasonable attorneys' fees, and costs, all pursuant to 29 U.S.C. §1132(g)(2);
- d. Enter judgment in favor of the Funds on Count II in the amount of all contributions owed from August 2016 through the present, together with all additional contractually owed contributions and any additional amounts determined by the Court to be owed the Funds or which may become due during the pendency of this action; and
- e. Such further and other relief as this Court may deem appropriate.

Respectfully submitted,

BARRY C. McANARNEY, as he is  
EXECUTIVE DIRECTOR,  
MASSACHUSETTS LABORERS'  
HEALTH AND WELFARE FUND, *et al.*,

By their attorneys,

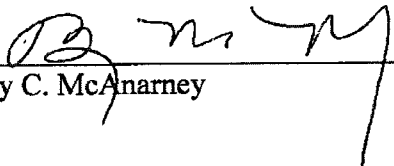
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Dated: December 22, 2016

**VERIFICATION**

I, Barry C. McAnarney, Executive Director for the Massachusetts Laborers' Health and Welfare, Pension, and Annuity Funds, verify that I have read the above Verified Complaint, and the factual allegations set forth therein are true and accurate based on my personal knowledge, except for those allegations based on information and belief, and, as to those allegations, I believe them to be true.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 20<sup>TH</sup> DAY OF  
DECEMBER, 2016.

  
Barry C. McAnarney